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OFFICE OF PETITIONS

In re Application :
Bernard, et al. :
Application No. 09/955,415 : PATENT TERM ADJUSTMENT
Filed: September 18, 2001 :
Dkt. No.: MCE04-12 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed March 15, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 125 days as indicated on the Determination of Patent Term Adjustment mailed March 3, 2004 to 316 days.

A review of the application history reveals that an adjustment under 37 CFR 1.702(a)(1) of 232 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began November 19, 2002, the day after the date that is fourteen months from the date the application was filed, and ended July 8, 2003, the date the non-final Office action was mailed.

A further adjustment under 37 CFR 1.702(a)(2) of 90 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began December 5, 2003, the day after the date that is four months from the date a response to the non-final Office action was filed, and ended March 3, 2004, the date of mailing of Notice of Allowance.

In accordance with 37 CFR 1.704(c)(8), however, the adjustment of 322 days is reduced 191 days for applicants' failure to engage in reasonable efforts to conclude prosecution. The reduction began August 5, 2003, the day after the date that an initial response to the non-final Office action was filed, and ended February 11, 2004, the date of submission of the information disclosure statement. The reduction is pursuant to


37 CFR 1.704(c)(8). Nothing in the record reflects that the supplemental papers (IDS submissions on September 24, 2003 and February 11, 2004) were expressly requested by the examiner.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 125 days as indicated in the Determination of Patent Term Adjustment mailed March 3, 2004.

The required application fee of \$200.00 has been charged to Deposit Account No. 23-0804.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Karin Ferriter
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Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation